

After reviewing the record and considering the briefs of the parties, the Appeals Board concludes the Award should be modified to find an average weekly wage of \$84.76.

Findings of Fact

1. The parties have stipulated claimant suffered a compensable injury in her employment for respondent on June 19, 1998, and that as a result claimant has a permanent partial impairment of 10 percent to the body as a whole.
2. Claimant worked for respondent from August 18, 1997 until May 29, 1998 under a written contract of employment. She earned \$8.60 per hour for 30 hours per week as a full-time paraprofessional during the 1997-1998 school year. Although she worked only 9 months under the contract, her pay was spaced out over 12 months.
3. Thereafter, claimant was hired to work the summer session at \$6.52 per hour for 3.5 hours per day. It was while working as a summer paraprofessional that claimant received the injury that is the subject of this claim.

Conclusions of Law

1. Because claimant elected to receive her wages for the 1997-1998 school year over a 12-month period, she was still being paid under the employment contract that ended May 29, 1998 when she was injured on June 19, 1998. But because she was not providing services for those wages, claimant cannot include that income in determining her gross average weekly wage. It would likewise be inappropriate to include those weeks claimant worked under the contract that ended May 29, 1998 in the wage computation. See, Lynch v. U.S.D. No. 480, 18 Kan. App. 2d 130, 850 P.2d 271 (1993).
2. As claimant was a part-time hourly employee, the relevant statute for determining her average weekly wage is K.S.A. 44-511(b)(4)(A) and (b)(5).
3. Applying liberal construction to effect legislative intent, multiple employment has been held to exist under K.S.A. 44-511(b)(7) where an employee performs work on a part-time basis for each of two or more employers, either simultaneously **or consecutively**. Kinder v. Murray & Sons Construction Co., Inc., 264 Kan. 484, 957 P.2d 488 (1998). Claimant's employment during the 1997-1998 school year under the employment contract was neither part-time employment nor was it consecutive work with another employer. Accordingly, claimant did not engage in multiple employment within the meaning of K.S.A. 44-511(b)(7).
4. Claimant worked 22.75 hours during the eleven days of the summer session starting June 8, 1998 until her accident on June 19, 1998. But because she only worked one full week before her accident, only the first week will be used to determine claimant's wage. Accordingly, the Appeals Board finds a gross average weekly wage of \$84.76 (\$6.52 per hour x 3.25 hours per day x 4 days per week).

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Brad E. Avery dated November 30, 1999, should be, and is hereby, modified as follows:

WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Karen Buckridge, and against the respondent, U.S.D. 253, and its insurance carrier, Hartford Ins. Co. of the Midwest, for an accidental injury which occurred June 19, 1998, and based upon an average weekly wage of \$84.76 for 23 weeks of temporary total disability compensation at the rate of \$56.51 per week or \$1,299.73, followed by 40.7 weeks at the rate of \$56.51 per week or \$2,299.96, for a 10% permanent partial general disability, making a total award of \$3,599.69, which is ordered paid in one lump sum less any amounts previously paid.

IT IS SO ORDERED.

Dated this ____ day of April 2000.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Jan L. Fisher, Topeka, KS
P. Kelly Donley, Wichita, KS
Brad E. Avery, Administrative Law Judge
Philip S. Harness, Director